

ORDINANCE NO. 766

**AN ORDINANCE OF THE OGDEN DUNES TOWN COUNCIL
AMENDING THE OGDEN DUNES TOWN CODE
AND ESTABLISHING NON-SMOKING AREAS**

WHEREAS, numerous studies, including those conducted by the U.S. Surgeon General and the Center for Disease Control, have found that tobacco smoke is a major contributor to indoor pollution and that breathing secondhand smoke is a cause of disease including lung cancer in non-smokers; and

WHEREAS, people at special risk to secondhand smoke include children, the elderly, individuals with cardiovascular disease or impaired respiratory function, including asthmatics and those with obstructive airway disease; and

WHEREAS, health hazards induced by breathing secondhand smoke include lung cancer, heart disease, respiratory infection, decreased respiratory function and broncho spasms; and

WHEREAS, the Town of Ogden Dunes finds and declares that the purposes for this ordinance are: 1) to protect the health and welfare of employees of the Town of Ogden Dunes and visitors to its municipal facilities by prohibiting smoking in buildings and vehicles owned, leased, or operated by the Town of Ogden Dunes; and 2) to guarantee the right of non-smokers to breathe smoke-free air and to recognize that the need to breathe smoke-free air shall have priority over the desire to smoke in municipal facilities;

NOW, THEREFORE, BE IT AND IT IS HEREBY ORDAINED by the Ogden Dunes Town Council as follows:

SECTION 1: That "Chapter 96. Non-Smoking Areas" shall be added to the Ogden Dunes Town Code, which shall hereafter read as follows:

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Chapter 96. Non-Smoking Areas.

Sec. 96.01. Definitions.

- a. Enclosed Area. All space between floor and ceiling that is enclosed on all sides by solid walls or windows (exclusive of doorways), which extend from the floor to ceiling.
- b. Person. Any individual, firm, partnership, association, corporation, company or organization of any kind.
- c. Smoke or Smoking. The act of lighting, carrying, inhaling from or leaving a lighted or smoldering cigar, cigarette, or pipe of any kind.

Sec. 96.02. Smoking Prohibited in Town Facilities.

Smoking shall be prohibited in all enclosed facilities owned, leased or operated by the Town, including buildings and vehicles. The Ogden Dunes Parks and Recreation Department shall enact rules concerning non-smoking areas in the Ogden Dunes parks. Any violation of the rules adopted by the Ogden Dunes Parks and Recreation Department shall subject the offender to the penalty provisions contained in Sec. 96.07 of the Ogden Dunes Town Code.

Sec. 96.03. Reasonable Distance.

Smoking shall be prohibited within a reasonable distance from an area where smoking is prohibited by this chapter, but in no event any closer than 15 feet so as to insure that tobacco smoke does not enter into facilities designated smoke-free under this chapter through entrances, windows, ventilation intakes or other means.

Sec. 96.04. Enforcement.

- A. This chapter shall be enforced by the Ogden Dunes Police Department, Building Commissioner, Fire Department, Town Attorney, or an authorized designee of the aforementioned.
- B. Any citizen who desires to register a complaint under this chapter may initiate enforcement with the Ogden Dunes Police Department or Building Commissioner.

Sec. 96.05. Other Applicable Laws.

This chapter shall not be interpreted to permit smoking where it is otherwise restricted by other applicable laws or to supercede any federal, state or local laws which are more restrictive.

Sec. 96.06. Chapter to Be Broadly Interpreted.

This chapter shall be construed broadly to effectuate the purposes described in the preamble of Ordinance No. 766.

Sec. 96.07. Violations and Penalties.

Any employee of the Town who violates this ordinance shall be subject to disciplinary action and fines set forth below.

Any person, who is not an employee of the Town and violates this ordinance, shall be punished by a fine of One Hundred Dollars (\$100.00) for a first violation, and Two Hundred Dollars (\$200.00) for a second or subsequent violation; all of which shall be paid within 30 days of said violation to the Ogden Dunes Ordinance Violation Bureau. Any failure to pay the prescribed fine for said violation(s) within thirty (30) days of the violation, or any subsequent violations of this chapter by the same person, shall subject the offender to a fine of not less than

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\$200.00 nor more than \$2,500.00 for each violation along with court costs imposed by a court of competent jurisdiction in Porter County. Each day in which a violation of this chapter occurs shall be considered a separate and distinct violation.

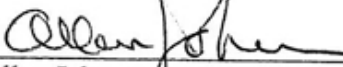
Sec. 96.08. Severability.


If any section, sentence, or provision of this chapter, or the application thereof to any person or circumstance, shall be declared unconstitutional or invalid, such invalidity shall not affect any of the sections, sentences, provisions, or applications of this chapter which can be given effect without the invalid provision or application and, to this end, the provisions of this chapter are declared to be severable.

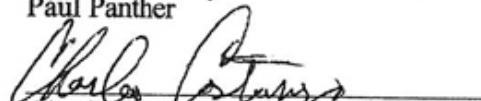
SECTION 2: This Ordinance shall take effect from and after its adoption and publication as required by law.

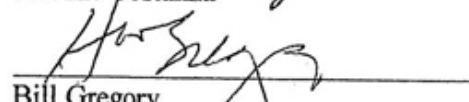
ALL OF WHICH IS PASSED AND ADOPTED by the Ogden Dunes Town Council this 2nd day of JULY, 2012.

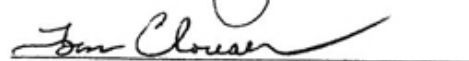
OGDEN DUNES TOWN COUNCIL


Allen Johnson


Paul Panther


Charlie Costanza


Bill Gregory


Tom Clouser

ATTEST:


Jean Manna, Clerk-Treasurer